THE HON'BLE SRI JUSTICE N.V. RAMANA

W.P. No. 18784 of 2006

O r d e r:

The petitioner was appointed as Conductor in the respondent-APSRTC. On 05.01.1994, while he was conducting the bus on route Jangaon – Ippagudem, a check was exercised by the checking officials, and subsequently he was issued a charge sheet alleging certain cash and ticket irregularities. He submitted his explanation denying the charges leveled against him. Having not satisfied with the explanation, an enquiry was conducted, and the Enquiry Officer, who conducted the enquiry, submitted his report stating that the charges leveled against the petitioner are proved. Based on the enquiry report, the petitioner was removed from service with effect from 15.04.1994. Assailing the said removal order, the petitioner filed an appeal before the 1st respondent, who partly allowed the appeal and modified the punishment to that of reinstatement of the petitioner into service as a fresh Conductor in the minimum scale. Assailing the said orders, the petitioner raised an industrial dispute in I.D. No. 69 of 2003, and the Labour Court, vide award dated 06.09.2005, dismissed the same and confirmed the orders passed by the 1st respondent-Divisional Manager. Questioning the said award, the petitioner filed the present writ petition.

The learned counsel for the petitioner submitted that when the bus reached stage No.11 nearly eight passengers boarded the bus, and the petitioner issued tickets to four passengers and when he demanded the fare from other four passengers, who were in intoxicated condition, they neither tendered the fare nor intimated their destination nor alighted from the bus, and in turn they picked up quarrel with the petitioner, and in the meantime check was exercised by the TTIs. He further submitted that the Labour Court failed to see that the TTIs imposed fine of Rs.50/- on the above passengers besides collecting requisite fare from them, and that one of the passengers in his statement categorically stated that his colleague passengers delayed the payment of fare and quarreled with the petitioner in paying the fare, and in the meantime bus reached stage No.12, where check

was exercised, as such, the petitioner has not committed any misconduct, and there is no intention on his part either to defraud or cause loss to the Corporation. He, thus, prays to allow the writ petition and set aside the award of the Labour Court.

The learned Standing Counsel for the 1st respondent-APSRTC, however, supported the impugned order. He submitted that the charges against the petitioner stood proved in the enquiry. Though initially the disciplinary authority removed the petitioner from service, but the appellate authority in appeal, reduced the punishment and directed appointment of the petitioner as a fresh conductor, and the Labour Court, after appreciating the entire material and evidence on record, confirmed same, which cannot be said to be an illegal or arbitrary award, warranting interference by this Court.

Heard the learned counsel for the petitioner and the learned Standing Counsel for the 1st respondent-APSRTC.

The parameters and scope of judicial review of this Court under Article 226 of the Constitution of India, to issue a writ of certiorari are very limited. In **Surya Dev Rai v. Ram Chander Rai**[1], the apex Court held as follows:

> Certiorari, under Art. 226 of the Constitution, is issued for correcting gross errors of jurisdiction, i.e., when a subordinate Court is found to have acted (i) without jurisdiction - by assuming jurisdiction where there exists none, or (ii) in excess of its jurisdiction by overstepping or crossing the limits of jurisdiction, or (iii) acting in flagrant disregard of law or the rules of procedure or acting in violation of principles of natural justice where there is no procedure specified, and thereby occasioning failure of justice.

Within the parameters, as laid down by the apex Court, in the above judgment, the impugned award of the Labour Court has to be judged.

As can be seen from the award of the Labour Court, the petitioner did not allege any irregularities in the conduct of the domestic enquiry and the same was held valid. The petitioner was charge sheeted alleging that he failed to observe the rule 'Issue and Start', failed to collect the fare and issue tickets to four passengers, and failed to close S.R. of all denominations up to stage No.12 without completing the issuance of tickets. In the enquiry, the said charges leveled against the petitioner stood proved. Based on the enquiry report, a show cause notice was issued, and upon considering the explanation submitted by the petitioner thereto, the disciplinary

authority, passed an order of removal. However, in appeal, the appellate authority reduced the punishment imposed on the petitioner and directed his appointment as a fresh conductor. The Labour Court, upon re-appreciation of the entire material on record, held that the punishment imposed by the appellate authority is not at all disproportionate to the proved charges, and accordingly confirmed the order passed by the appellate authority.

It is not a case where the charges leveled against the petitioner are not proved. In fact, all the charges leveled against the petitioner stood proved. Though considering the proved charges, the disciplinary authority removed the petitioner from service, the fact remains, as there was no element of misappropriation, the appellate authority took a sympathetic view and reduced the punishment from one of dismissal from service to that of reinstatement into service as fresh Conductor, which the Labour Court had rightly confirmed by reason of the impugned award, and no exception can be taken thereto.

The writ petition is devoid of merit and the same is accordingly dismissed. No costs.

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N.V. RAMANA, J.

Date: 11th October 2007.
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[1] AIR 2003 SC 3044=2003AIR SCW3872